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Los Angeles Superior Court

APR 13 2012

John A. Clarke, Executive Officer/Clerk

By Paul Sanchez Dep.

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Attorneys for Defendant and Cross-Complainant CITY OF BURBANK, including the  
POLICE DEPARTMENT OF THE CITY OF BURBANK (erroneously sued as an  
independent entity named "BURBANK POLICE DEPARTMENT")

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN; ELFEGO  
RODRIGUEZ; AND JAMAL CHILDS,

Plaintiffs,

v.

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; AND DOES 1 THROUGH  
100, INCLUSIVE,

Defendants.

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK,

Cross-Complainants,

v.

OMAR RODRIGUEZ, an Individual;

Cross-Defendant.

Case No. BC 414602

Judge: The Honorable Joanne O'Donnell  
Dept.: 37

**DEFENDANT CITY OF BURBANK'S  
SUPPLEMENTAL BRIEF RE PLAINTIFF  
STEVE KARAGIOSIAN'S FAILURE TO  
EXHAUST ADMINISTRATIVE  
REMEDIES; DECLARATION OF  
VERONICA VON GRABOW**

File Date: May 28, 2009

Trial Date: March 19, 2012 (Karagiosian)

Discovery Referee: Hon. Diane Wayne, Ret.

1 In his opposition to Burbank's motion, Plaintiff Steve Karagiosian ("Karagiosian")  
2 concedes that he did not see, review or personally submit, and thereby did not verify, his  
3 complaint filed with the Department of Fair Employment And Housing ("DFEH") ("DFEH  
4 Complaint").<sup>1</sup> Indeed, Karagiosian admits that the one and only action taken to verify his DFEH  
5 Complaint was taken by his attorney: "When Mr. Karagiosian's attorney was done inputting Mr.  
6 Karagiosian's information, *he* then clicked the button to submit Mr. Karagiosian's FEHA  
7 Complaint." Opp. Br. 4:9-10 (emphasis added).

8 Karagiosian attempts to refute these facts by arguing that he did not testify accurately at  
9 trial and presenting a handwritten DFEH form, which was never submitted to the DFEH and never  
10 produced during discovery. Such highly-suspect and newly-produced "evidence" should be  
11 disregarded by the Court and, in any event, fails to rebut that Burbank is entitled to judgment as a  
12 matter of law because Karagiosian failed to exhaust his administrative remedies.

13  
14 **I. KARAGIOSIAN CANNOT DEFEAT BURBANK'S MOTION BY ARGUING HE**  
15 **DID NOT TESTIFY ACCURATELY AT TRIAL**

16 "It has long been recognized that the offer of a witness, after trial, to retract his sworn  
17 testimony is to be viewed with suspicion," and the Court can disregard such "evidence." *In re*  
18 *Roberts*, 29 Cal. 4th 726, 742-43 (2003) (internal citations and quotations omitted); *People v.*  
19 *McGaughran* 197 Cal. App. 2d 6, 17 (1961) ("It has been repeatedly held that where a witness  
20 who has testified at a trial makes an affidavit that such testimony is false, little credence ordinarily  
21 can be placed in the affidavit...").

22 Here, Karagiosian's newly-minted declaration attempts to recant his trial testimony and  
23 offer an entirely new version of the facts. Yet, Karagiosian's counsel never sought to clarify  
24 Karagiosian's testimony on re-direct and never hinted at this new version of the facts during trial  
25 proceedings. Karagiosian cannot defeat Burbank's motion for judgment based on such

26 <sup>1</sup> Burbank moved for a directed verdict on the issue of Karagiosian's failure to exhaust  
27 administrative remedies, and the Court reserved its ruling on that issue. In the alternative, this  
28 motion should be considered an addition to and incorporated into Burbank's forthcoming motion  
for Judgment Notwithstanding the Verdict ("JNOV"), which will be filed shortly.

1 “evidence.” At best, this new version of the facts creates what would have been a dispute of fact  
2 that would have required resolution by the jury. Accordingly, at a minimum, Burbank is entitled  
3 to a new trial.

4 **II. THE HANDWRITTEN DFEH FORM SHOULD BE EXCLUDED BECAUSE**  
5 **KARAGIOSIAN NEVER PRODUCED IT DURING DISCOVERY**

6 California courts prohibit trial by surprise. In furtherance of this goal, California provides  
7 for a statutory discovery process, pursuant to which a party must disclose all evidence responsive  
8 to discovery requests, interrogatories, and in response to questions at deposition. *See* Cal. Code  
9 Civ. Proc. §§ 2016.010-2036.050. Where a party refuses to do so, the evidence can be excluded.  
10 *See Juarez v. Boy Scouts of Am., Inc.*, 81 Cal. App. 4th 377, 388-89 (2000) (affirming trial court’s  
11 decision to “prohibit[ ] [the plaintiff] from producing at trial the evidence that he repeatedly  
12 refused to produce during discovery”); *Vallbona v. Springer*, 43 Cal. App. 4th 1525, 1545-46  
13 (1996) (affirming exclusion of evidence where party “fail[ed] to respond to an authorized method  
14 of discovery”); *Deeter v. Angus*, 179 Cal. App. 3d 241, 254-55 (1986) (affirming exclusion of  
15 evidence where “plaintiffs failed to produce the [evidence] when defendants initially requested  
16 production of documents”)(footnote omitted); *see also* Code Civ. Proc. § 2023.030; Weil &  
17 Brown *et al.*, Cal. Prac. Guide: *Civ. Proc. Before Trial* (The Rutter Group, Rev. #1 2010),  
18 ¶8:1508.10, at 8H-49 (“The trial court has the power to exclude documents or other physical  
19 evidence at trial that has been concealed in response to interrogatories and [inspection demands]  
20 and that would cause ‘unfair surprise’ at trial.”).

21 On June 12, 2009, Burbank served Notice Of Deposition Of Steve Karagiosian And  
22 Request For Production Of Documents (“RFP”), which, among other requests, called for  
23 production of any documents relating to any complaint Karagiosian filed with the DFEH related to  
24 the instant action. Declaration of Veronica von Grabow (“von Grabow Decl.”) ¶ 2 and Exh. A.  
25 On August 7, 2009, Karagiosian produced the DFEH Complaints submitted on-line (Trial Exhibit  
26 158). Karagiosian ***never produced*** the handwritten DFEH form attached to his April 6, 2012  
27 declaration, even though such a document clearly was responsive to the June 12, 2009 RFP. *Id.* at  
28 ¶ 3. Accordingly, the DFEH form should be excluded and disregarded by the Court.

1 **III. IN ANY EVENT, KARAGIOSIAN HAS FAILED TO ESTABLISH THAT HE**  
2 **EXHAUSTED HIS ADMINISTRATIVE REMEDIES**

3 Even if the Court were to consider Karagiosian's declaration and newly produced DFEH  
4 form (which it should not), that "evidence" still fails to establish that Karagiosian exhausted his  
5 administrative remedies. It is completely undisputed that the one and only action taken to verify  
6 Karagiosian's DFEH Complaint was taken by his attorney, not by Karagiosian himself. California  
7 law is crystal clear that for an attorney to verify a DFEH complaint, he must do so *in his own*  
8 *name*. The controlling case is *Blum v. Superior Court*, 141 Cal. App. 4th 418, 428 (2006):

9 We hold an attorney may verify a DFEH complaint for his or her  
10 client by *subscribing his or her own name to the complaint. The*  
11 *attorney may not verify by signing the client's name.* (Emphasis  
added.)

12 Here, Karagiosian contends that he verified the DFEH Complaint by completing and  
13 signing the newly produced handwritten DFEH form. Notably, on its face, the newly produced  
14 DFEH form is different from the filed DFEH Complaint, in that it is dated May 5, 2009, while the  
15 on-line submission claims that the discrimination and harassment continued through May 27,  
16 2009. Further, the handwritten form names only two individuals, while the filed DFEH  
17 Complaints named nine individuals. *See* Trial Exhibit 158. In any event, FEHA requires that a  
18 party submit a verified complaint – not that the party produce something different, that was never  
19 submitted to the agency, and which has been secretly maintained in his attorney's office until it  
20 becomes convenient to produce it.

21 Karagiosian's implicit argument in opposition to this motion is that the verification is just a  
22 formality, and strict compliance with the rule of *Blum* is not necessary. This ignores two  
23 important points. First, the requirement of a verified DFEH complaint is not merely a procedural  
24 rule. It is jurisdictional, and if the rule is not complied with, the Court has no jurisdiction to hear  
25 the claim. *Id.* at 422 ("[I]n the context of the FEHA, the failure to exhaust an administrative  
26 remedy is a jurisdictional, not a procedural, defect. (*Okoli v. Lockheed Technical Operations Co.*  
27 (1995) 36 Cal. App. 4th 1607, 1613.)").

1 Second, the requirement that the DFEH complaint be verified is intended to establish *who*  
2 can be held responsible for the factual assertions therein. As the *Blum* Court observed: “We  
3 would, however, caution attorneys about verifying such complaints ... as they are subject to  
4 penalties for perjury if they sign their name to DFEH complaints.” *Id.* at 428. This purpose would  
5 be subverted if a plaintiff were able to “have his cake and eat it too,” by allowing someone else to  
6 perform the *only* affirmative act which designates his choice to assume the penalty of perjury for  
7 the allegations in his DFEH complaint. If his DFEH Complaint were determined to be false, or in  
8 bad faith, a plaintiff like Karagiosian could disclaim any responsibility by saying he had never  
9 affirmatively verified the Complaint. Nor would his attorney be responsible, since the attorney’s  
10 name does not appear as the person verifying the Complaint.

11 In short, Karagiosian’s approach would leave *nobody* responsible for the allegations in a  
12 DFEH Complaint. This is not the result the Legislature intended when it required that a DFEH  
13 Complaint be verified, but it is precisely the result the Court in *Blum* intended to prohibit when it  
14 held that an attorney who verifies a DFEH Complaint must do so *in his own name*, and cautioned  
15 attorneys who followed that approach that they must be prepared to be held responsible for their  
16 actions. The *Blum* rule obviously presupposes that the verifying attorney will have discussed the  
17 facts asserted in the DFEH Complaint with his client. However, the rule is not merely to ensure  
18 the accuracy of *what* is verified (as Karagiosian assumes), but rather to ensure the accountability  
19 of *who* has verified the complaint.<sup>2</sup>

20 Finally, Karagiosian asserts that the instant motion should be denied because the Court  
21 previously denied Burbank’s motion for summary adjudication relating to Plaintiff Cindy Guillen-  
22 Gomez (“Guillen”) (“Guillen MSA”). In ruling on the Guillen-MSA, the Court found there was a  
23 triable issue of fact as to whether Guillen properly verified her DFEH Complaint. *See* March 22,

24 \_\_\_\_\_  
25 <sup>2</sup> Karagiosian’s assertion that on-line Complaints of Discrimination need not be signed overlooks  
26 that on-line Complaints still must be verified, which is done by “submitting” the Complaint. CCR  
27 § 10002(a)(9) (“complaints filed electronically shall state that by submitting the complaint, the  
28 complainant declares under penalty of perjury under the laws of the State of California that to the  
best of his or her knowledge, all information stated in the complaint is true and correct, except  
matters stated on information and belief, which the complainant declares he or she believes to be  
true”).

1 2011 Minute Order (Exhibit B to Plaintiff's Request For Judicial Notice). The process  
2 Karagiosian claims to have followed, however, is entirely different from the process Guillen  
3 claims to have followed. Guillen stated that she sat with her attorney as he prepared the DFEH  
4 form on-line, looked at the form on-line, and told her attorney that she verified it and authorized  
5 him to click the submit button. *See* von Grabow Decl. ¶ 4 and Exh. B (Guillen Declaration In  
6 Support of Opposition to MSA). Karagiosian, on the other hand, did none of those things.

7 It is worth noting that during trial proceedings related to this motion, Karagiosian's  
8 counsel represented to the Court that there had been a change in the law since the Guillen MSA.  
9 Karagiosian's counsel represented that he would produce authorities to support that contention.  
10 He has not done so.

11 **IV. KARAGIOSIAN FAILED TO PROVE THAT HE FILED A DFEH COMPLAINT**  
12 **AT ALL**

13 In addition to failing to prove he filed a *verified* DFEH Complaint, Karagiosian failed to  
14 prove that he filed a DFEH complaint *at all*. During trial, Karagiosian testified that his attorney  
15 filed the DFEH Complaint on his behalf. Karagiosian, however, never established any foundation  
16 for that testimony given he was not present when the DFEH complaint was filed and has no  
17 personal knowledge of it being filed. Further, Karagiosian never actually offered the DFEH  
18 Complaint into evidence. In short, there was no admissible evidence offered at trial to establish  
19 that *any* DFEH charge was ever filed. This is a necessary element of any FEHA claim, and a  
20 plaintiff's failure to prove it up at trial is fatal to that claim. Cal. Govt. Code § 12960(b); *Blum v.*  
21 *Superior Court*, 141 Cal. App. 4th 418, 428 (2006).

22 **V. SANCTIONS SHOULD BE IMPOSED AGAINST KARAGIOSIAN AND HIS**  
23 **COUNSEL**

24 Karagiosian and his counsel's attempt to obfuscate the facts by submitting Karagiosian's  
25 newly minted declaration and never before produced DFEH form are only the latest in a long line  
26 of bad faith tactics employed by Plaintiffs and their counsel, Solomon Gresen, during this  
27 litigation. Enough is enough. Burbank respectfully requests this Court impose sanctions against  
28 Karagiosian and his counsel in the amount of \$2,360.00, the reasonable costs and fees incurred in



1 connection with this motion, plus any other sanctions the Court finds appropriate. *See* Code Civ.  
2 Proc. § 128.7; von Grabow Decl. ¶ 5. Alternatively, Burbank requests the Court order  
3 Karagiosian and his counsel to show cause why they should not be sanctioned. Code Civ. Proc.  
4 § 128.7(c)(2).

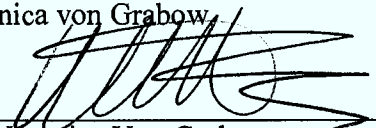
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6 **VI. CONCLUSION**

7 Burbank respectfully submits that the Court should enter judgment in favor of Burbank as  
8 to each of Karagiosian's remaining causes of action, all of which are FEHA claims, because  
9 Karagiosian failed to exhaust his administrative remedies under FEHA.

10 In addition, Burbank requests the Court impose sanctions against Karagiosian and his  
11 counsel in the amount of \$2,360.00, the reasonable costs and fees incurred in connection with this  
12 motion, plus any other sanctions the Court finds appropriate under the circumstances.  
13 Alternatively, Burbank requests the Court order Karagiosian and his counsel to show cause why  
14 they should not be sanctioned.

15  
16 Dated: April 13, 2012

MITCHELL SILBERBERG & KNUPP LLP  
Lawrence A. Michaels  
Veronica von Grabow

17  
18  
19 By:   
Veronica Von Grabow  
Attorneys for Defendants and Cross-  
20 Complainant CITY OF BURBANK,  
21 including the POLICE DEPARTMENT OF  
22 THE CITY OF BURBANK (erroneously  
sued as an independent entity named  
"BURBANK POLICE DEPARTMENT")

**DECLARATION OF VERONICA VON GRABOW**

**DECLARATION OF VERONICA VON GRABOW**



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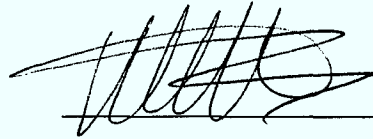
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1           5.       I have spent in excess of six hours preparing papers related to this motion. I  
2 anticipate spending approximately two hours preparing for and attending the hearing on the  
3 motion. My billing rate in this matter is \$295 per hour.  
4

5  
6           Executed this 13th day of April, 2012, at Los Angeles, California.

7           I declare under penalty of perjury under the laws of the State of California that the  
8 foregoing is true and correct.



Veronica von Grabow

**EXHIBIT A**

**EXHIBIT A**

1 MITCHELL SILBERBERG & KNUPP LLP  
2 LAWRENCE A. MICHAELS (SBN 107260)  
3 SARAH T. WIRTZ (SBN 217434)  
4 VERONICA T. VON GRABOW (SBN 259859)  
5 11377 West Olympic Boulevard  
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7 Telephone: (310) 312-2000  
8 Facsimile: (310) 312-3100

9 Attorneys for Defendant  
10 CITY OF BURBANK, including the  
11 POLICE DEPARTMENT OF THE CITY OF BURBANK  
12 (erroneously sued as an independent entity named  
13 "BURBANK POLICE DEPARTMENT")  
14

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 OMAR RODRIGUEZ; CINDY GUILLEN-  
18 GOMEZ; STEVE KARAGIOSIAN; ELFEGO  
19 RODRIGUEZ; AND JAMAL CHILDS,

20 Plaintiffs,

21 v.

22 BURBANK POLICE DEPARTMENT; CITY  
23 OF BURBANK; TIM STEHR; KERRY  
24 SCHILF; JAMIE "J.J." PUGLISI; DAN  
25 YADON; KELLY FRANK; PAT LYNCH;  
26 MIKE PARRINELLO; AARON KENDRICK;  
27 DARIN RYBURN; AND DOES 1 THROUGH  
28 100, INCLUSIVE,

Defendants.

CASE NO. BC414602

Judge: Honorable Joanne O'Donnell  
Dept: 37

File Date: May 28, 2009  
Trial Date: Not Set

**NOTICE OF DEPOSITION OF  
PLAINTIFF STEVE KARAGIOSIAN AND  
REQUEST FOR DOCUMENTS**

Date: July 27, 2009  
Time: 9:30 a.m.  
Location: Mitchell Silberberg & Knupp,  
11377 West Olympic Boulevard,  
Los Angeles, 90064

1 TO PLAINTIFF STEVE KARAGIOSIAN AND HIS ATTORNEYS OF RECORD:

2  
3 PLEASE TAKE NOTICE that on July 27, 2009, Defendant City of Burbank,  
4 including the Police Department of the City of Burbank (erroneously sued as an independent  
5 entity named "Burbank Police Department") ("Defendant"), through its attorneys, will take the  
6 deposition upon oral examination of plaintiff Steve Karagiosian ("Plaintiff") pursuant to  
7 California Code of Civil Procedure Section 2025.010 *et seq.* Said deposition will commence at  
8 9:30 a.m. and will take place at the law offices of Mitchell Silberberg & Knupp, 11377 West  
9 Olympic Boulevard, Los Angeles, 90064.

10  
11 Said deposition will continue on a later date mutually convenient to the parties and  
12 their counsel. In the event Plaintiff and Defendant cannot agree to a date to continue the  
13 deposition, the deposition will continue on a date unilaterally set by Defendant. Said deposition  
14 will be taken upon oral examination before a Notary Public or some other officer authorized to  
15 take oaths who will then and there be present. Said deposition will be recorded stenographically.

16  
17 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil  
18 Procedure Sections 2025.220(a)(5) and 2025.330(c), Defendant reserves the right to record all or  
19 any portion of said deposition by audiotape or videotape, and/or to use instant visual display (real  
20 time transcripts) of the testimony.

21  
22 PLEASE TAKE FURTHER NOTICE that, pursuant to California Code of Civil  
23 Procedure Section 2025.220(a)(4), Defendant demands that Plaintiff produce at said deposition for  
24 inspection and copying the original documents described herein.

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28 Mitchell  
Silberberg &  
Knupp LLP

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4. "BURBANK P.D." as used hereinafter means and refers to the Burbank Police Department, and also includes all current and former members, officers, supervisors, managers and staff of the Burbank Police Department.

5. The "CITY OF BURBANK" as used hereinafter means and refers to defendant City of Burbank, and also includes any divisions and departments of the City (including the Burbank Police Department), and all of its and their respective agents, current and former employees, attorneys, investigators, representatives, and anyone else acting on their behalf.

6. "HEALTH CARE PROVIDER" includes any person or entity referred to in California Code of Civil Procedure Section 667.7(e)(3).

7. "COMPLAINT" means the Complaint currently on file in this action in the Superior Court of the State of California for the County of Los Angeles entitled Omar Rodriguez et al. v. Burbank Police Department, et al., Los Angeles Superior Court Case No. BC414602.

8. Documents which "EVIDENCE," "REFER," or "RELATE" to a given subject matter are documents that, whether directly or indirectly, constitute, memorialize, contain, concern, embody, reflect, identify, state, deal with, comment on, respond to, set forth, describe, analyze, support, contract, or are in any way pertinent to that subject matter.

## INSTRUCTIONS

1. Documents Withheld. If any DOCUMENT is withheld under a claim of privilege or exemption, so as to aid the Court and the parties in determining the validity of the claim of privilege or exemption, please provide the City of Burbank with written notice containing the following information regarding that DOCUMENT: (a) the identity of the PERSON who prepared the document, who signed it, and over whose name it was sent or issued; (b) the identity of the PERSON to whom the DOCUMENT was directed; (c) the nature and substance of the



1 DOCUMENT with sufficient particularity to enable the Court and the parties hereto to identify it;  
2 (d) the date of the DOCUMENT; (e) the identity of the PERSONS who have custody of or control  
3 over the DOCUMENT and each copy of it; (f) the identity of each PERSON to whom copies of  
4 the DOCUMENT were furnished, together with their job titles and identities of their employers at  
5 the time they obtained the document and their present addresses and telephone numbers; (g) the  
6 number of pages of the DOCUMENT; (h) the basis on which any privilege or other protection is  
7 claimed; and (i) whether any non-privileged or non-protected matter is included in the document  
8 and the nature and substance of the non-privileged or non-protected matter.  
9

10 2. Partial Production. Whenever YOU object to a particular request or portion  
11 thereof, YOU must produce all DOCUMENTS called for that are not subject to that objection.  
12 Similarly, whenever a DOCUMENT is not produced in full, please state with particularity the  
13 reason or reasons it is not being produced in full and describe to the best of YOUR knowledge,  
14 information, and belief, and with as much particularity as possible, those portions of the  
15 DOCUMENT that are not produced.  
16

17 3. Orderly Response. Please produce DOCUMENTS in such a manner as will  
18 facilitate their identification with the particular request or category of requests to which they are  
19 responsive.  
20

21 4. Construction of Terms. The singular of any word is intended to include the plural  
22 and vice versa. The conjunctive "and" is intended to refer to and include the disjunctive "or" and  
23 vice versa.  
24

#### 25 DOCUMENTS TO BE PRODUCED

26 1. All DOCUMENTS which EVIDENCE, REFER or RELATE to YOUR  
27 employment with the CITY OF BURBANK.  
28

1           2.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any  
2 communications between YOU and any PERSON regarding any of the matters encompassed by  
3 the COMPLAINT.  
4

5           3.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any  
6 communications between YOU and any other plaintiff(s) in this LAWSUIT regarding or relating  
7 to the BURBANK P.D. and/or YOUR employment with the CITY OF BURBANK.  
8

9           4.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any  
10 communications between YOU and any individual defendant(s) in this LAWSUIT regarding or  
11 relating to the BURBANK P.D. and/or YOUR employment with the CITY OF BURBANK.  
12

13          5.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any  
14 communications between YOU and any member of the BURBANK P.D. regarding or relating to  
15 the BURBANK P.D. and/or YOUR employment with the CITY OF BURBANK.  
16

17          6.     All diaries, journals, datebooks, calendars, rolodex files, telephone books, address  
18 books or other DOCUMENTS maintained by YOU during the period from the day YOU first  
19 worked for the CITY OF BURBANK until the present.  
20

21          7.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any of the CITY  
22 OF BURBANK's formal or informal personnel policies or employment practices, including, but  
23 not limited to, all manuals, guidelines, memoranda, instructions or other tangible things which in  
24 any way relate to any of the CITY OF BURBANK's personnel policies or employment practices.  
25

26          8.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any of the CITY  
27 OF BURBANK's formal or informal hiring practices and procedures including, but not limited to,  
28

1 all manuals, guidelines, memoranda, instructions or other tangible things which in any way relate  
2 to any of the CITY OF BURBANK's hiring practices and procedures.

3  
4 9. All DOCUMENTS or property which YOU have obtained, in any manner, from the  
5 CITY OF BURBANK's offices or the BURBANK P.D.'s offices.

6  
7 10. All DOCUMENTS which EVIDENCE, REFER or RELATE to any evaluations,  
8 criticisms or commendations of YOUR work performance during YOUR employment with the  
9 CITY OF BURBANK.

10  
11 11. Any DOCUMENTS which support, EVIDENCE, REFER or RELATE to YOUR  
12 scores on any examinations, tests, or assessments relating to YOUR employment with the CITY  
13 OF BURBANK.

14  
15 12. All DOCUMENTS which EVIDENCE, REFER or RELATE to YOUR job  
16 functions, responsibilities or duties in any position held with the CITY OF BURBANK.

17  
18 13. All DOCUMENTS which EVIDENCE, REFER or RELATE to training received  
19 by YOU and/or training requested by YOU during YOUR employment with the CITY OF  
20 BURBANK.

21  
22 14. Any DOCUMENTS which relate in any way to YOUR membership in the Burbank  
23 Police Officers Association or YOUR representation by the Burbank Police Officers Association.

24  
25 15. All DOCUMENTS which EVIDENCE, REFER or RELATE to any claim, charge,  
26 petition or complaint of any kind filed or lodged by YOU with any local government, state or  
27 federal agency or department (including, without limitation, the Equal Employment Opportunity  
28 Commission, the California Department of Fair Employment and Housing, the Department of

1 Industrial Relations Division of Labor Standards Enforcement, the National Labor Relations  
2 Board, the Workers' Compensation Appeals Board, and the California Employment Development  
3 Department), or any agency or employee thereof, regarding or pertaining to any allegation made in  
4 the COMPLAINT.

5  
6 16. All DOCUMENTS which EVIDENCE, REFER or RELATE to any claim, charge,  
7 petition or complaint of any kind filed or lodged by YOU with the CITY OF BURBANK  
8 (including, but not limited to, the Governmental Claim Form(s) referenced in the COMPLAINT).

9  
10 17. All DOCUMENTS which EVIDENCE, REFER or RELATE to any formal or  
11 informal complaint made, lodged or brought by YOU to any PERSON from the day YOU first  
12 worked at the CITY OF BURBANK to the present, concerning the CITY OF BURBANK, YOUR  
13 employment with the CITY OF BURBANK, and/or the BURBANK P.D.

14  
15 18. All DOCUMENTS which EVIDENCE, REFER or RELATE to YOUR  
16 applications for employment or any other effort to obtain employment or work with any PERSON,  
17 other than the CITY OF BURBANK, at any time during the period from when YOU were first  
18 hired by the CITY OF BURBANK to the present.

19  
20 19. All DOCUMENTS which EVIDENCE, REFER or RELATE to any disability  
21 insurance claim or petition filed or lodged, or any disability insurance compensation or benefits  
22 received by YOU from any PERSON including, but not limited to, any insurance company or  
23 governmental agency, from the day YOU first worked at the CITY OF BURBANK to the present.

24  
25 20. All DOCUMENTS which EVIDENCE, REFER or RELATE to any Workers'  
26 Compensation claim or petition filed or lodged by YOU, or any Workers' Compensation benefits  
27 received by YOU from the day YOU first worked at the CITY OF BURBANK to the present.

28  
Mitchell  
Silberberg &  
Knapp LLP

2267185.4

1           21.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any of YOUR  
2 appointments with, communication with, visits to, prescriptions from, or treatments by any  
3 HEALTH CARE PROVIDER for consultation, counseling, therapy, diagnosis, examination, or  
4 treatment for any medical, physical, emotional or psychological condition, illness or injury for  
5 which YOU are seeking any damages in YOUR COMPLAINT.

6  
7           22.     All DOCUMENTS which EVIDENCE, REFER or RELATE to YOUR mental or  
8 emotional state or condition at any time from the day YOU first worked for the CITY OF  
9 BURBANK to the present.

10  
11           23.     All DOCUMENTS which EVIDENCE, REFER or RELATE to any and all  
12 damages and/or harm suffered by or that will be suffered by YOU as alleged in YOUR  
13 COMPLAINT, including but not limited to all DOCUMENTS supporting YOUR computation of  
14 the amount of such damages and/or harm. This request includes, but is not limited to, the  
15 following:

16               a.     All DOCUMENTS which EVIDENCE, REFER or RELATE to each item  
17 and amount of economic losses and damages, if any, which YOU contend that YOU have  
18 sustained, are sustaining, or will sustain, as alleged in the COMPLAINT; and

19               b.     All DOCUMENTS which EVIDENCE, REFER or RELATE to each item  
20 and amount of non-economic losses and damages, if any, which YOU contend that YOU have  
21 sustained, are sustaining, or will sustain, as alleged in the COMPLAINT.

22  
23           24.     All DOCUMENTS that EVIDENCE, REFER or RELATE to YOUR allegations in  
24 the COMPLAINT that YOU are entitled to recover attorneys' fees and costs in this action,  
25 including but not limited to the fee and cost arrangement between YOU and YOUR counsel for  
26 those attorneys' fees and costs for which YOU are seeking recovery in this action.

1           25.   All DOCUMENTS which support or relate to the First Cause of Action in the  
2 COMPLAINT.

3  
4           26.   All DOCUMENTS which support or relate to the Second Cause of Action in the  
5 COMPLAINT.

6  
7           27.   All DOCUMENTS which support or relate to the Third Cause of Action in the  
8 COMPLAINT.

9  
10          28.   All DOCUMENTS which support or relate to the Fourth Cause of Action in the  
11 COMPLAINT.

12  
13          29.   All DOCUMENTS which support or relate to the Fifth Cause of Action in the  
14 COMPLAINT.

15  
16          30.   All DOCUMENTS which support or relate to the Sixth Cause of Action in the  
17 COMPLAINT.

18  
19          31.   All DOCUMENTS which support or relate to the Seventh Cause of Action in the  
20 COMPLAINT.

21  
22          32.   All DOCUMENTS which support or relate to the Eighth Cause of Action in the  
23 COMPLAINT.

24  
25          33.   All DOCUMENTS which support or relate to the Ninth Cause of Action in the  
26 COMPLAINT.

1           34.    All DOCUMENTS which support or relate to the Tenth Cause of Action in the  
2 COMPLAINT.

3  
4           35.    All DOCUMENTS which support or relate to the Eleventh Cause of Action in the  
5 COMPLAINT.

6  
7           36.    All DOCUMENTS which support or relate to YOUR prayer for relief in the  
8 COMPLAINT.

9  
10          37.    All DOCUMENTS which support, EVIDENCE, REFER or RELATE to any  
11 alleged unlawful act, omission or failure to act engaged in by any PERSON of which YOU  
12 complain in YOUR COMPLAINT.

13  
14          38.    Any and all audio and/or video tape recordings and/or transcriptions of recordings  
15 which EVIDENCE, REFER or RELATE to any of the matters encompassed by the COMPLAINT.

16  
17 DATED: June 12, 2009

MITCHELL SILBERBERG & KNUPP LLP  
Lawrence A. Michaels  
Sarah T. Wirtz  
Veronica T. von Grabow

18  
19  
20  
21 By: 

Sarah T. Wirtz  
Attorneys for Defendant  
CITY OF BURBANK, including the  
POLICE DEPARTMENT OF THE  
CITY OF BURBANK (erroneously sued  
as an independent entity named  
"BURBANK POLICE DEPARTMENT")



1 **PROOF OF SERVICE**

2 97123-00000

3 *Rodriguez, et al. vs. Burbank Police Department, et al. — LASC Case No. BC414602*

4 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18  
6 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP,  
11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

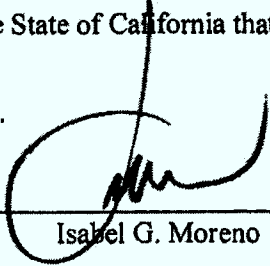
7 On June 12, 2009, I served a copy of the foregoing document(s) described as NOTICE OF  
8 **DEPOSITION OF PLAINTIFF STEVE KARAGIOSIAN AND REQUEST FOR**  
9 **DOCUMENTS** on the interested parties in this action at their last known address as set forth  
below by taking the action described below:

10 Solomon E. Gresen, Esq.  
11 Steven V. Rheuban, Esq.  
12 Law Offices of Rheuban & Gresen  
13 1990 South Bundy Drive, Suite 540  
14 Los Angeles, CA 90025  
T: (310) 979-0325  
F: (310) 979-0351  
*Attorneys for Plaintiffs Omar Rodriguez, Cindy Guillen-Gomez,*  
*Steve Karagiosian, Elfego Rodriguez, and Jamal Childs*

15 ☒ **BY PERSONAL DELIVERY:** I placed the above-mentioned document(s) in sealed  
16 envelope(s), and caused personal delivery by **FIRST LEGAL SUPPORT SERVICES** of  
the document(s) listed above to the person(s) at the address(es) set forth above.

17 I declare under penalty of perjury under the laws of the State of California that the above is  
18 true and correct.

19 Executed on June 12, 2009, at Los Angeles, California.

20   
21 \_\_\_\_\_  
Isabel G. Moreno

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28 Mitchell  
Silberberg &  
Knupp LLP

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1 **PROOF OF SERVICE**

2 97123-00000

3 *Rodriguez, et al. vs. Burbank Police Department, et al. — LASC Case No. BC414602*

4 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

5 I am employed in the county of Los Angeles, State of California.

6 I am over the age of 18, and not a party to the within action; my business address is  
7 **FIRST LEGAL SUPPORT SERVICES**, 1511 West Beverly Boulevard, Los Angeles,  
8 California 90026.

9 On June 12, 2009, I served the foregoing document(s) described as **NOTICE OF**  
10 **DEPOSITION OF PLAINTIFF STEVE KARAGIOSIAN AND REQUEST FOR**  
11 **DOCUMENTS** which was enclosed in sealed envelopes addressed as follows, and taking the  
12 action described below:

13 Solomon E. Gresen, Esq.  
14 Steven V. Rheuban, Esq.  
15 Law Offices of Rheuban & Gresen  
16 1990 South Bundy Drive, Suite 540  
17 Los Angeles, CA 90025  
18 T: (310) 979-0325  
19 F: (310) 979-0351  
20 *Attorneys for Plaintiffs Omar Rodriguez, Cindy Guillen-Gomez,*  
21 *Steve Karagiosian, Elfego Rodriguez, and Jamal Childs*

22 ☒ **BY PERSONAL SERVICE:** I hand delivered such envelope(s):

23 ☐ to the addressee(s);

24 ☒ to the receptionist/clerk/secretary in the office(s) of the addressee(s).

25 ☐ by leaving the envelope in a conspicuous place at the office of the addressee(s)  
26 between the hours of 9:00 a.m. and 5:00 p.m.

27 I declare under penalty of perjury under the laws of the State of California that the above is  
28 true and correct.

Executed on June 12, 2009, at Los Angeles, California.

23 SERGIO A. ALVARADO

24 Printed Name

25 

Signature

**EXHIBIT B**

**EXHIBIT B**

(SPACE BELOW FOR FILING STAMP ONLY)

1 SOLOMON E. GRESEN [SBN: 164783]  
STEVEN M. CISCHE [SBN: 125612]  
2 **LAW OFFICES OF RHEUBAN & GRESEN**  
15910 Ventura Boulevard, SUITE 1610  
3 ENCINO, CALIFORNIA 91436  
TELEPHONE: (818) 815-2727  
4 FACSIMILE: (818) 815-2737  
Attorneys for Plaintiffs Omar Rodriguez, Steve Karagiosian,  
5 Cindy Guillen-Gomez, Elfego Rodriguez and Jamal Childs

6  
7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES  
10

11 OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
12 ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

13 Plaintiffs,

14  
15 -vs-

16 BURBANK POLICE DEPARTMENT; CITY  
17 OF BURBANK; AND DOES 1 THROUGH  
18 100, INCLUSIVE.

19 Defendants.  
20

CASE NO.: BC 414 602

Complaint Filed: May 28, 2009

Assigned to: Hon. Joanne B. O'Donnell, Judge

Dept: 37

Date: March 22, 2011

Time: 9:00 a.m.

**DECLARATION OF CINDY GUILLEN-  
GOMEZ IN OPPOSITION TO DEFENDANT  
BURBANK'S MOTION FOR SUMMARY  
ADJUDICATION OF ISSUES AGAINST  
PLAINTIFF CINDY GUILLEN-GOMEZ**

[Filed concurrently with Opposition to Motion;  
Declaration of Solomon e. Gresen and Request  
for Judicial Notice

Trial Date: April 13, 2011 (Guillen-Gomez)  
June 8, 2011 (Karagiosian)  
July 27, 2010 (O Rodriguez)

21 I, Cindy Guillen-Gomez declare and say:

22  
23 1. I am one of the Plaintiffs in the captioned action. I have personal knowledge of the facts  
24 set forth herein, and if called to testify, I would and could testify competently thereto.  
25

26 2. On May 27, 2009, I met with my attorney, Solomon Gresen at his office to prepare and  
27 submit my complaint of discrimination ("FEHA Complaint") with the California Department of Fair  
28 Employment and Housing ("DFEH").

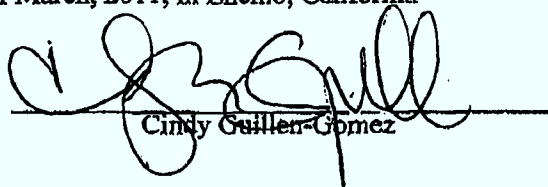
1 me for all of the information required to complete each line of the complaint.

2 4. Mr. Gresen informed me the on-line submission of my DFEH Complaint would  
3 constitute my statement under penalty of perjury under the laws of the state of California that  
4 everything in the DFEH Complaint is true of my own knowledge except as to matters stated on  
5 information and belief and, as to those matters, that I believed them to be true.

6 5. When we were doing all of the above, I never saw the final form of the FEHA Complaint  
7 that I was asked about at my deposition.

8 6. I declare under penalty of perjury under the laws of the State of California that the  
9 foregoing is true and correct.

10 Executed this 7<sup>th</sup> day of March, 2011, in Encino, California

11   
12 \_\_\_\_\_  
13 Cindy Guillen-Gomez  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen and am not a party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino, California 91436.

On March 8, 2011, I served a copy of the following document described as  
**DECLARATION OF CINDY GUILLEN-GOMEZ IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT BURBANK'S MOTION FOR SUMMARY ADJUDICATION OF ISSUES AGAINST PLAINTIFF CINDY GUILLEN-GOMEZ** on the interested parties in this action as follows:

Lawrence A. Michaels  
Mitchell Silberberg & Knupp LLP  
11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
Facsimile: (310) 312-3100  
Email: LAM@msk.com

Linda Miller Savitt, Esq.  
Ballard Rosenberg Golper & Savitt, LLP  
500 North Brand Boulevard, Twentieth Floor  
Glendale, California 91203  
Facsimile: (818) 506-4827  
Email: lsavitt@brgslaw.com

Carol Ann Humiston  
Senior Assistant City Attorney  
Office of the City Attorney  
275 East Olive Avenue,  
Burbank, California 91510-6459  
Facsimile: (818) 238-5724  
Email: [chumiston@ci.burbank.ca.us](mailto:chumiston@ci.burbank.ca.us)

Thomas G. Mackey, Esq.  
Jackson Lewis LLP  
725 South Figueroa Street, Suite 2500  
Los Angeles, California 90017  
Email: [mackeyt@jacksonlewis.com](mailto:mackeyt@jacksonlewis.com)

Robert Tyson, Esq.  
Burke, Williams & Sorensen, LLP  
444 South Flower Street, Suite 2400  
Los Angeles, California 90071  
Email: RTyson@bwslaw.com

**XX BY OVERNIGHT DELIVERY:** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed as above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

**BY E-MAIL OR ELECTRONIC TRANSMISSION**: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail address listed above. My electronic notification address is [dj@rglawyers.com](mailto:dj@rglawyers.com). I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**XX STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on March 8, 2011 at Encino, California.

\_\_\_\_\_  
Daphne Johnson

1 **PROOF OF SERVICE**

2 42729-00001

3 *Rodriguez, et al. vs. Burbank Police Department, et al. — LASC Case No. BC414602*

4 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18  
6 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP,  
11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

7 On April 13, 2012, I served a copy of the foregoing document(s) described as:  
8 **DEFENDANT CITY OF BURBANK'S SUPPLEMENTAL BRIEF RE PLAINTIFF STEVE**  
9 **KARAGIOSIAN'S FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;**  
10 **DECLARATION OF VERONICA VON GRABOW** on the interested parties in this action at  
their last known address as set forth below by taking the action described below:

11 Solomon E. Gresen, Esq., [seg@rglawyers.com](mailto:seg@rglawyers.com)  
12 Steven V. Rheuban, Esq., [svr@rglawyers.com](mailto:svr@rglawyers.com)  
13 Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
14 Encino, CA 91436  
T: (818) 815-2727  
F: (818) 815-2737  
15 Attorneys for Plaintiffs Omar Rodriguez, Cindy Guillen-Gomez, Steve  
Karagiosian, Elfego Rodriguez, and Jamal Childs

16  
17 ☒ **BY OVERNIGHT MAIL:** I placed the above-mentioned document(s) in sealed  
18 envelope(s) designated by the carrier, with delivery fees provided for, and addressed as set  
19 forth above, and deposited the above-described document(s) with **FEDERAL EXPRESS**  
in the ordinary course of business, by depositing the document(s) in a facility regularly  
maintained by the carrier or delivering the document(s) to an authorized driver for the  
carrier.

20 I declare under penalty of perjury under the laws of the State of California that the above is  
21 true and correct.

22 Executed on April 13, 2012, at Los Angeles, California.

23  
24 

25 Isabel G. Moreno